

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:23-CV-862**

DEMOCRATIC NATIONAL
COMMITTEE; *et al.*,

Plaintiffs,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS; *et al.*,

Defendants.

**MOTION TO DISMISS
Fed. R. Civ. P. 12(b)(1) and 12(b)(6)**

NOW COME Intervenor-Defendants, Philip E. Berger, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and Timothy K. Moore, in his official capacity as Speaker of the North Carolina House of Representatives (collectively, the “Legislative Defendants”), by and through undersigned counsel, and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, respectfully move this Court for an Order dismissing Plaintiffs’ Complaint [D.E. 1], with prejudice. For the reasons set forth in detail in the contemporaneously filed Memorandum in Support of this Motion, Plaintiffs’ Complaint should be dismissed because Plaintiffs lack standing and, alternatively, Plaintiffs have failed to state a claim upon which relief may be granted.

WHEREFORE, for the foregoing reasons, and as set forth in the corresponding Memorandum in Support of this Motion, Legislative Defendants respectfully request that this Court enter an order dismissing all of Plaintiffs’ claims, with prejudice.

Respectfully submitted, this the 16th day of January, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that I filed the forgoing document using the Court's CM/ECF System which will send notification to all counsel of record.

This the 16th day of January, 2024.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

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